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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,842	12/24/2001	Ken Endelman	40070.6US14	4299

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EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,842

Applicant(s)

ENDELMAN ET AL.

Examiner

Jerome W Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed. 12-27
- 6) ☒ Claim(s) ____ is/are rejected. 1, 5-7 9 and 10
- 7) ☒ Claim(s) ____ is/are objected to. 2-4 8 and 11
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claims 12-27 are allowed.

Claims 2-48 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kverneland in view of Nestegard.

Kverneland discloses a device comprising: a generally rectangular frame having a pair of spaced apart parallel track members, a movable carriage mounted on the frame and a plurality of elongated elastic members (28) extending between the carriage and the foot end of the frame.

Kverneland however, does not disclose his device wherein the carriage includes a frame made of sheet material folded to form two parallel spaced channels that fit on the track members and having transverse ribs extending between the channels.

Nestegard teaches manufacturing carriage members wherein they include track members manufactured of folded sheet metal, (see area (39) Fig 3).

Given the above teaching of Nestegard the examiner notes that to manufacture carriage means having channels of folded sheet material is obvious to one of ordinary skill in the art as an obvious track gliding configuration known in the art.

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As to the carriage means including rib means the examiner notes that to use rib means transversely between rail and channel means is known in the art as an obvious way to strengthen frame means, as disclosed by the transverse members (36, 38, and 41) of Kverneland.

In regard to claim 9 the examiner notes that it would have been obvious to further include rollers within the channel members of Kverneland modified supra as a known and obvious gliding component of carriage means.

In regard to claim 10 aluminum and steel frames are known frame materials known in the art.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kverneland in view of Nestegard and Olschansky et al.

Kverneland in view of Nestegard discloses the device of claim 5 substantially as claimed absent the feature of anchoring pins as claimed.

Olschansky et al teaches providing anchoring pins as means by which to anchor a resilient means in an exercising device.

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to anchor the resilient members of Kverneland in view of Nestegard using pins as a known anchoring means in the art.

Claims 1, 6, 7, 9 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham.

Graham discloses a device having a rectangular frame, a movable carriage, said carriage having folder material, ribs, (33) and (34) extending between the channels and

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a plurality of elongated elastic members extending between the carriage and the foot and of the frame. Graham does not disclose his device wherein the fold material forms channels.

Folded material on a sliding carriage forming channels is disclosed by Stevens Fig. 4b.

Given the above teaching the examiner notes that it is well known and that it would have been obvious to one of ordinary skill in the art to manufacture the carriage means of Graham as being channels as a known and alternate design and choice in sliding means for carriages.

In regard to claim (42) note elements (30 and 32).

In regard to claim 6 note the spring support cross member (15) of Graham.

In regard to claim 9 note the channel wheel configuration of Stevens.

In regard to claim 17 the examiner considers the claimed attached location as obvious as any attachment location so long as the spring members bias the carriage, unless the applicant can prove the criticality thereof.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (703) 308-2668.

Jerome W. Donnelly
Primary Examiner

